

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Ronald J. Allison,

Case No.: 2:21-cv-01814-APG-NJK

Plaintiff

Order

V.

Stein Forensics Unit & Staff, et al.,

Defendants

Plaintiff Ronald J. Allison brings this civil-rights action under 42 U.S.C. § 1983 to
constitutional violations that he claims he suffered while incarcerated at Southern Nevada
Mental Health Services. ECF No. 1-1. On October 7, 2021, the magistrate judge ordered
Allison to submit a complaint in compliance with Local Special Rule 2-1 (LSR 2-1) and file a
complete application to proceed *in forma pauperis* or pay the full \$402 filing fee on or
December 6, 2021. ECF No. 3. The magistrate judge warned Allison that the action could
be dismissed if he failed to submit a complaint in compliance with LSR 2-1 and file a fully
complete application to proceed *in forma pauperis* with all three documents or pay the full \$402
filing fee for a civil action by that deadline. *Id.* at 4. That deadline expired and Allison did not
file a complaint in compliance with LSR 2-1 and file a fully complete application to proceed
in forma pauperis, pay the full \$402 filing fee, or otherwise respond.

I. Discussion

21 District courts have the inherent power to control their dockets and “[i]n the exercise of
22 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.
23 *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may
dismiss an action based on a party’s failure to obey a court order or comply with local rules. See

1 *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply
 2 with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S.*
 3 *Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court
 4 order). In determining whether to dismiss an action on one of these grounds, I must consider:
 5 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its
 6 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of
 7 cases on their merits; and (5) the availability of less drastic alternatives. *See In re*
 8 *Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting *Malone*
 9 *v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987)).

10 The first two factors (the public's interest in expeditiously resolving this litigation and the
 11 court's interest in managing its docket) weigh in favor of dismissing Allison's claims. The third
 12 factor (risk of prejudice to the defendants) also weighs in favor of dismissal because a
 13 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading
 14 ordered by the court or prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th
 15 Cir. 1976). The fourth factor (the public policy favoring disposition of cases on their merits) is
 16 greatly outweighed by the factors favoring dismissal.

17 The fifth factor requires me to consider whether less drastic alternatives can be used to
 18 correct the party's failure that brought about the court's need to consider dismissal. *See Yourish*
 19 *v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less drastic
 20 alternatives *before* the party has disobeyed a court order does not satisfy this factor); *accord*
 21 *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that "the persuasive
 22 force of" earlier Ninth Circuit cases that "implicitly accepted pursuit of last drastic alternatives
 23 prior to disobedience of the court's order as satisfying this element[,]” *i.e.*, like the "initial

1 granting of leave to amend coupled with the warning of dismissal for failure to comply[,]” have
2 been “eroded” by *Yourish*). Courts “need not exhaust every sanction short of dismissal before
3 finally dismissing a case, but must explore possible and meaningful alternatives.” *Henderson v.*
4 *Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed
5 unless Allison either files a fully complete application to proceed *in forma pauperis* or pays the
6 \$402 filing fee for a civil action, the only alternative is to enter a second order setting another
7 deadline. But the reality of repeating an ignored order is that it often only delays the inevitable
8 and squanders the court’s finite resources. The circumstances here do not indicate that this case
9 will be an exception: there is no hint that Allison needs additional time or evidence that he did
10 not receive the court’s order. Setting another deadline is not a meaningful alternative given these
11 circumstances. So the fifth factor favors dismissal.

12 **II. Conclusion**

13 Having thoroughly considered these dismissal factors, I find that they weigh in favor of
14 dismissal.

15 I THEREFORE ORDER that this action is dismissed without prejudice based on
16 Allison’s failure to submit a complaint in compliance with LSR 2-1 and file a fully complete
17 application to proceed *in forma pauperis* or pay the full \$402 filing fee in compliance with the
18 magistrate judge’s October 7, 2021, order. The Clerk of Court is directed to enter judgment
19 accordingly and close this case. No other documents may be filed in this now-closed case. If
20 Allison wishes to pursue his claims, he must file a complaint in a new case.

21 Dated: December 21, 2021

22 
23 ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE